

118TH CONGRESS
1ST SESSION

S. 1399

To provide for American energy security by improving the permitting process.

IN THE SENATE OF THE UNITED STATES

MAY 2, 2023

Mr. MANCHIN introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To provide for American energy security by improving the permitting process.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Building American Energy Security Act of 2023”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—ACCELERATING AGENCY REVIEWS

Sec. 101. Definitions.

Sec. 102. Streamlining process for authorizations and reviews of energy and natural resources projects.

Sec. 103. Prioritizing energy projects of strategic national importance.

- Sec. 104. Empowering the Federal Permitting Improvement Steering Council and improving reviews.
 Sec. 105. Litigation transparency.

TITLE II—MODERNIZING PERMITTING LAWS

- Sec. 201. Transmission.
 Sec. 202. Definition of natural gas under the Natural Gas Act.
 Sec. 203. Authorization of Mountain Valley Pipeline.
 Sec. 204. Rights-of-way across Indian land.
 Sec. 205. Federal Energy Regulatory Commission staffing.

1 **TITLE I—ACCELERATING** 2 **AGENCY REVIEWS**

3 **SEC. 101. DEFINITIONS.**

4 In this title:

5 (1) **AGENCY.**—The term “agency” means any
 6 agency, department, or other unit of Federal, State,
 7 local, or Tribal government.

8 (2) **ALASKA NATIVE CORPORATION.**—The term
 9 “Alaska Native Corporation” has the meaning given
 10 the term “Native Corporation” in section 3 of the
 11 Alaska Native Claims Settlement Act (43 U.S.C.
 12 1602).

13 (3) **AUTHORIZATION.**—The term “authoriza-
 14 tion” means any license, permit, approval, finding,
 15 determination, interagency consultation, or other ad-
 16 ministrative decision that is required or authorized
 17 under Federal law (including regulations) to design,
 18 plan, site, construct, reconstruct, or commence oper-
 19 ations of a project, including any authorization de-

1 scribed in section 41001(3) of the FAST Act (42
2 U.S.C. 4370m(3)).

3 (4) COOPERATING AGENCY.—The term “cooper-
4 ating agency” means any Federal agency (and a
5 State, Tribal, or local agency if agreed on by the
6 lead agency), other than a lead agency, that has ju-
7 risdiction by law or special expertise with respect to
8 an environmental impact relating to a project.

9 (5) ENVIRONMENTAL DOCUMENT.—The term
10 “environmental document” includes any of the fol-
11 lowing, as prepared under NEPA:

12 (A) An environmental assessment.

13 (B) A finding of no significant impact.

14 (C) An environmental impact statement.

15 (D) A record of decision.

16 (6) ENVIRONMENTAL IMPACT STATEMENT.—
17 The term “environmental impact statement” means
18 the detailed statement of environmental impacts of
19 a project required to be prepared under NEPA.

20 (7) ENVIRONMENTAL REVIEW PROCESS.—The
21 term “environmental review process” means the
22 process for preparing an environmental impact state-
23 ment, environmental assessment, categorical exclu-
24 sion, or other document required to be prepared to

1 achieve compliance with NEPA, including pre-appli-
2 cation consultation and scoping processes.

3 (8) INDIAN TRIBE.—The term “Indian Tribe”
4 has the meaning given the term in section 102 of the
5 Federally Recognized Indian Tribe List Act of 1994
6 (25 U.S.C. 5130).

7 (9) LEAD AGENCY.—The term “lead agency”,
8 with respect to a project, means—

9 (A) the Federal agency preparing, or as-
10 suming primary responsibility for, the author-
11 ization or review of the project; and

12 (B) if applicable, any State, local, or Trib-
13 al government entity serving as a joint lead
14 agency for the project.

15 (10) NEPA.—The term “NEPA” means the
16 National Environmental Policy Act of 1969 (42
17 U.S.C. 4321 et seq.) (including NEPA implementing
18 regulations).

19 (11) NEPA IMPLEMENTING REGULATIONS.—
20 The term “NEPA implementing regulations” means
21 the regulations in subpart A of chapter V of title 40,
22 Code of Federal Regulations (or successor regula-
23 tions).

24 (12) PARTICIPATING AGENCY.—The term “par-
25 ticipating agency” means an agency participating in

1 an environmental review or authorization for a
2 project.

3 (13) PROJECT SPONSOR.—The term “project
4 sponsor” means an entity, including any private,
5 public, or public-private entity, seeking an authoriza-
6 tion for a project.

7 **SEC. 102. STREAMLINING PROCESS FOR AUTHORIZATIONS**
8 **AND REVIEWS OF ENERGY AND NATURAL RE-**
9 **SOURCES PROJECTS.**

10 (a) DEFINITIONS.—In this section:

11 (1) CATEGORICAL EXCLUSION.—The term “cat-
12 egorical exclusion” means a categorical exclusion
13 within the meaning of NEPA.

14 (2) MAJOR PROJECT.—The term “major
15 project” means a project—

16 (A) for which multiple authorizations, re-
17 views, or studies are required under a Federal
18 law other than NEPA; and

19 (B) with respect to which the head of the
20 lead agency has determined that—

21 (i) an environmental impact statement
22 is required; or

23 (ii) an environmental assessment is
24 required, and the project sponsor requests

1 that the project be treated as a major
2 project.

3 (3) PROJECT.—The term “project” means a
4 project—

5 (A) proposed for the construction of infra-
6 structure—

7 (i) to develop, produce, generate,
8 store, transport, or distribute energy;

9 (ii) to capture, remove, transport, or
10 store carbon dioxide; or

11 (iii) to mine, extract, beneficiate, or
12 process minerals; and

13 (B) that, if implemented as proposed by
14 the project sponsor, would be subject to the re-
15 quirements that—

16 (i) an environmental document be pre-
17 pared; and

18 (ii) the applicable agency issue an au-
19 thorization of the activity.

20 (4) SECRETARY CONCERNED.—The term “Sec-
21 retary concerned” means, as appropriate—

22 (A) the Secretary of Agriculture, with re-
23 spect to the Forest Service;

24 (B) the Secretary of Energy;

25 (C) the Secretary of the Interior;

1 (D) the Federal Energy Regulatory Com-
2 mission;

3 (E) the Secretary of the Army, with re-
4 spect to the Corps of Engineers; and

5 (F) the Secretary of Transportation, with
6 respect to the Maritime Administration and the
7 Pipeline and Hazardous Materials Safety Ad-
8 ministration.

9 (b) APPLICABILITY.—

10 (1) IN GENERAL.—The project development
11 procedures under this section—

12 (A) shall apply to—

13 (i) all projects for which an environ-
14 mental impact statement is prepared;

15 (ii) all major projects; and

16 (iii) to the maximum extent prac-
17 ticable, projects described in clause (i) or
18 (ii) for which an authorization is being
19 sought or that are subject to an environ-
20 mental review process initiated prior to the
21 date of enactment of this Act;

22 (B) may be applied, as requested by a
23 project sponsor and to the extent determined
24 appropriate by the Secretary concerned, to

1 other projects for which an environmental docu-
2 ment is prepared; and

3 (C) shall not apply to—

4 (i) any project subject to section 139
5 of title 23, United States Code;

6 (ii) any project that is a water re-
7 sources development project of the Corps
8 of Engineers; or

9 (iii) any authorization of the Corps of
10 Engineers if that authorization is for a
11 project that alters or modifies a water re-
12 sources development project of the Corps
13 of Engineers.

14 (2) FLEXIBILITY.—Any authority provided by
15 this section may be exercised, and any requirement
16 established under this section may be satisfied, for
17 a project, class of projects, or program of projects.

18 (3) SAVINGS PROVISION.—Nothing in this sec-
19 tion—

20 (A) precludes the use of an authority pro-
21 vided under any other provision of law, includ-
22 ing for a covered project under title XLI of the
23 FAST Act (42 U.S.C. 4370m et seq.);

24 (B) supersedes or modifies any applicable
25 requirement, authority, or agency responsibility

1 provided under the National Environmental
2 Policy Act of 1969 (42 U.S.C. 4321 et seq.) or
3 any other provision of law; or

4 (C) shall be considered an abbreviated au-
5 thorization or environmental review process for
6 purposes of section 41001(6)(A)(i)(III) of the
7 FAST Act (42 U.S.C. 4370m(6)(A)(i)(III)).

8 (c) LEAD AGENCIES.—

9 (1) JOINT LEAD AGENCIES.—Nothing in this
10 section precludes an agency from serving as a joint
11 lead agency for a project, in accordance with NEPA.

12 (2) ROLES AND RESPONSIBILITIES.—With re-
13 spect to the environmental review process for a
14 project, the lead agency shall have the authority and
15 responsibility—

16 (A) to take such actions as are necessary
17 and appropriate to facilitate the expeditious res-
18 olution of the environmental review process for
19 the project;

20 (B) to prepare any required environmental
21 impact statement or other environmental docu-
22 ment, or to ensure that such an environmental
23 impact statement or environmental document is
24 completed, in accordance with this section and
25 applicable Federal law;

1 (C) not later than 45 days after the date
2 of publication of a notice of intent to prepare
3 an environmental impact statement, or the initi-
4 ation of an environmental assessment, as appli-
5 cable, for a project—

6 (i) to identify any other agencies that
7 may have financing, environmental review,
8 authorization, or other responsibilities with
9 respect to the project;

10 (ii) to invite the identified agencies to
11 become participating agencies in the envi-
12 ronmental review process for the project;
13 and

14 (iii) to establish, as part of the invita-
15 tion, a deadline for the submission of a re-
16 sponse, which may be extended by the lead
17 agency for good cause;

18 (D) to consider and respond to comments
19 timely received from participating agencies re-
20 lating to matters within the special expertise or
21 jurisdiction of those agencies;

22 (E) to consider, and, as appropriate, rely
23 on, adopt, or incorporate by reference, baseline
24 data, analyses, and documentation that have
25 been prepared for the project under the laws

1 and procedures of a State or an Indian Tribe
2 if the lead agency determines that—

3 (i) those laws and procedures are of
4 equal or greater rigor, as compared to each
5 applicable Federal law and procedure; and

6 (ii) the baseline data, analysis, or doc-
7 umentation, as applicable, was prepared
8 under circumstances that allowed for—

9 (I) opportunities for public par-
10 ticipation;

11 (II) consideration of alternatives
12 and environmental consequences; and

13 (III) other required analyses that
14 are substantially equivalent to the
15 analyses that would have been pre-
16 pared if the baseline data, analysis, or
17 documentation was prepared by the
18 lead agency pursuant to NEPA; and

19 (F)(i) to ensure that the project sponsor
20 complies with design and mitigation commit-
21 ments for the project made jointly by the lead
22 agency and the project sponsor; and

23 (ii) to ensure that environmental docu-
24 ments are appropriately supplemented if

1 changes become necessary with respect to the
2 project.

3 (d) PARTICIPATING AGENCIES.—

4 (1) APPLICABILITY.—

5 (A) INAPPLICABILITY TO COVERED
6 PROJECTS.—The procedures under this sub-
7 section shall not apply to a covered project (as
8 defined in section 41001 of the FAST Act (42
9 U.S.C. 4370m))—

10 (i) for which a project initiation notice
11 has been submitted pursuant to section
12 41003(a) of that Act (42 U.S.C. 4370m-
13 2(a)); and

14 (ii) that is carried out in accordance
15 with the procedures described in that no-
16 tice.

17 (B) DESIGNATIONS FOR CATEGORIES OF
18 PROJECTS.—The Secretary concerned may exer-
19 cise the authority under this subsection with re-
20 spect to—

21 (i) a project;

22 (ii) a class of projects; or

23 (iii) a program of projects.

24 (2) FEDERAL PARTICIPATING AGENCIES.—Any
25 Federal agency that is invited by a lead agency to

1 participate in the environmental review process for a
2 project shall be designated as a participating agency
3 by the lead agency, unless the invited agency in-
4 forms the lead agency, in writing, by the deadline
5 specified in the invitation, that the invited agency
6 has no responsibility for or interest in the project.

7 (3) FEDERAL COOPERATING AGENCIES.—A
8 Federal agency that has not been invited by a lead
9 agency to participate in the environmental review
10 process for a project, but that is required to make
11 an authorization or carry out an action for a project,
12 shall—

13 (A) notify the lead agency of the financing,
14 environmental review, authorization, or other
15 responsibilities of the notifying Federal agency
16 with respect to the project; and

17 (B) work with the lead agency to ensure
18 that the agency making the authorization or
19 carrying out the action is treated as a cooper-
20 ating agency for the project.

21 (4) RESPONSIBILITIES.—A participating agency
22 participating in the environmental review process for
23 a project shall—

24 (A) provide comments, responses, studies,
25 or methodologies relating to the areas within

1 the special expertise or jurisdiction of the agen-
2 cy; and

3 (B) use the environmental review process
4 to address any environmental issues of concern
5 to the agency.

6 (5) EFFECT OF DESIGNATION.—

7 (A) REQUIREMENT.—A participating agen-
8 cy for a project shall comply with the applicable
9 requirements of this section.

10 (B) NO IMPLICATION.—Designation as a
11 participating agency under this subsection shall
12 not imply that the participating agency—

13 (i) has made a determination to sup-
14 port or deny any project; or

15 (ii) has any jurisdiction over, or spe-
16 cial expertise with respect to evaluation of,
17 the applicable project.

18 (6) COOPERATING AGENCY DESIGNATION.—Any
19 agency designated as a cooperating agency shall also
20 be designated by the applicable lead agency as a par-
21 ticipating agency under the NEPA implementing
22 regulations.

23 (e) COORDINATION OF REQUIRED REVIEWS; ENVI-
24 RONMENTAL DOCUMENTS.—

1 (1) IN GENERAL.—The lead agency and each
2 participating agency for a project shall apply the re-
3 quirements of section 41005 of the FAST Act (42
4 U.S.C. 4370m–4) to the project, subject to the con-
5 dition that any reference contained in that section to
6 a “covered project” shall be considered to be a ref-
7 erence to the project under this section.

8 (2) SINGLE ENVIRONMENTAL DOCUMENT.—

9 (A) IN GENERAL.—Except as provided in
10 subparagraph (C), to the maximum extent prac-
11 ticable and consistent with Federal law, to
12 achieve compliance with NEPA, all Federal au-
13 thorizations and reviews that are necessary for
14 a project shall rely on a single environmental
15 document for each type of environmental docu-
16 ment prepared under NEPA under the leader-
17 ship of the lead agency.

18 (B) USE OF DOCUMENT.—

19 (i) IN GENERAL.—To the maximum
20 extent practicable, the lead agency shall
21 develop environmental documents sufficient
22 to satisfy the NEPA requirements for any
23 authorization or other Federal action re-
24 quired for the project.

1 (ii) COOPERATION OF PARTICIPATING
2 AGENCIES.—Each participating agency
3 shall cooperate with the lead agency and
4 provide timely information to assist the
5 lead agency to carry out subparagraph (A).

6 (C) EXCEPTIONS.—A lead agency may
7 waive the application of subparagraph (A) with
8 respect to a project if—

9 (i) the project sponsor requests that
10 agencies issue separate environmental doc-
11 uments;

12 (ii) the obligations of a cooperating
13 agency or participating agency under
14 NEPA have already been satisfied with re-
15 spect to the project; or

16 (iii) the lead agency determines, and
17 provides justification in the coordination
18 plan established under subsection (g)(1),
19 that multiple environmental documents are
20 more efficient for the environmental review
21 process or authorization process for the
22 project.

23 (D) PAGE LIMITS.—

24 (i) IN GENERAL.—Notwithstanding
25 any other provision of law and except as

1 provided in clause (ii), to the maximum ex-
2 tent practicable, the text of the items de-
3 scribed in paragraphs (4) through (6) of
4 section 1502.10(a) of title 40, Code of
5 Federal Regulations (or successor regula-
6 tions), of an environmental impact state-
7 ment for a project shall be not more than
8 150 pages.

9 (ii) EXCEPTIONS.—The text described
10 in clause (i)—

11 (I) shall be not more than 300
12 pages in the case of a proposal of un-
13 usual scope or complexity; and

14 (II) may exceed 300 pages if the
15 lead agency establishes a new page
16 limit for the environmental impact
17 statement for that project.

18 (f) ERRATA FOR ENVIRONMENTAL IMPACT STATE-
19 MENTS.—

20 (1) IN GENERAL.—In preparing a final environ-
21 mental impact statement for a project, if the lead
22 agency modifies the draft environmental impact
23 statement in response to comments, the lead agency
24 may write on errata sheets attached to the environ-
25 mental impact statement in lieu of rewriting the

1 draft environmental impact statement, subject to the
2 conditions described in paragraph (2).

3 (2) CONDITIONS.—The conditions referred to in
4 paragraph (1) are as follows:

5 (A) The comments to which the applicable
6 modification responds shall be minor.

7 (B) The modifications shall be confined
8 to—

9 (i) minor factual corrections; or

10 (ii) an explanation of the reasons why
11 the comments do not warrant additional
12 response from the lead agency.

13 (C) The errata sheets shall—

14 (i) cite the sources, authorities, and
15 reasons that support the position of the
16 lead agency; and

17 (ii) if appropriate, indicate the cir-
18 cumstances that would trigger reappraisal
19 or further response by the lead agency.

20 (3) SAVINGS PROVISION.—Nothing in this sub-
21 section precludes a lead agency from responding to
22 comments in a final environmental impact statement
23 in accordance with procedures described in section
24 1503.4(c) of the NEPA implementing regulations.

25 (g) COORDINATION AND SCHEDULING.—

1 (1) COORDINATION PLAN.—

2 (A) IN GENERAL.—Except as provided in
3 subparagraph (B), not later than 90 days after
4 the date of publication of a notice of intent to
5 prepare an environmental impact statement, or
6 the initiation of an environmental assessment,
7 as applicable, for a project, the lead agency
8 shall establish a plan for coordinating public
9 and agency participation in, and comment re-
10 garding, the environmental review process and
11 authorization decisions for the project or appli-
12 cable category of projects (referred to in this
13 paragraph as the “coordination plan”).

14 (B) OTHER DATE.—If the project sponsor
15 requests the establishment of a coordination
16 plan for a project by a date earlier than the
17 deadline described in subparagraph (A), the
18 lead agency shall establish the coordination plan
19 not later than 90 days after the request is re-
20 ceived by the head of the lead agency.

21 (C) INCORPORATION INTO MEMO-
22 RANDUM.—A coordination plan may be incor-
23 porated into a memorandum of understanding
24 with the project sponsor, lead agency, and any
25 other appropriate entity to accomplish the co-

1 ordination activities described in this sub-
2 section.

3 (D) SCHEDULE.—

4 (i) IN GENERAL.—As part of a coordi-
5 nation plan for a project, the lead agency
6 shall establish and maintain a schedule for
7 completion of the environmental review
8 process and authorization decisions for the
9 project that—

10 (I) includes the date of project
11 initiation or earliest Federal agency
12 contact for the project, including any
13 pre-application consultation;

14 (II) includes any programmatic
15 environmental document or agreement
16 that is a prerequisite or predecessor
17 for the environmental review process
18 for the project;

19 (III) includes—

20 (aa) any Federal authoriza-
21 tion, action required as part of
22 the environmental review process,
23 consultation, or similar process
24 that is required through project
25 completion;

1 (bb) to the maximum extent
2 practicable, any Indian Tribe,
3 Alaska Native Corporation,
4 State, or local agency authoriza-
5 tion, review, consultation, or
6 similar process; and

7 (cc) a schedule for each au-
8 thorization under item (aa) or
9 (bb), including any pre-applica-
10 tion consultations, applications,
11 interim milestones, public com-
12 ment periods, draft decisions,
13 final decisions, and final author-
14 izations necessary to begin con-
15 struction; and

16 (IV) is established—

17 (aa) after consultation with,
18 and the concurrence of, each par-
19 ticipating agency for the project;
20 and

21 (bb) with the participation
22 of the project sponsor.

23 (ii) MAJOR PROJECT SCHEDULES.—

24 To the maximum extent practicable and
25 consistent with applicable Federal law, in

1 the case of a major project, the lead agen-
2 cy shall develop, with the concurrence of
3 each participating agency for the major
4 project and in consultation with the project
5 sponsor, a schedule for the major project
6 that is consistent with completing—

7 (I) the environmental review
8 process—

9 (aa) in the case of major
10 projects for which the lead agen-
11 cy determines an environmental
12 impact statement is required, not
13 later than 2 years after the date
14 of publication by the lead agency
15 of a notice of intent to prepare
16 an environmental impact state-
17 ment to the record of decision;
18 and

19 (bb) in the case of major
20 projects for which the lead agen-
21 cy determines an environmental
22 assessment is required, not later
23 than 1 year after the date on
24 which the head of the lead agen-
25 cy determines that an environ-

1 mental assessment is required to
2 a finding of no significant im-
3 pact; and

4 (II) any outstanding authoriza-
5 tion required for project construction
6 not later than 150 days after the date
7 of an issuance of a record of decision
8 or a finding of no significant impact
9 under subclause (I).

10 (E) FACTORS FOR CONSIDERATION.—In
11 establishing a schedule under subparagraph
12 (D), a Federal lead agency shall consider fac-
13 tors such as—

14 (i) the responsibilities of participating
15 agencies or cooperating agencies under ap-
16 plicable law;

17 (ii) resources available to the partici-
18 pating agencies or cooperating agencies;

19 (iii) the overall size and complexity of
20 the project;

21 (iv) the overall time required by an
22 agency to conduct the environmental re-
23 view process and make decisions under ap-
24 plicable Federal law relating to a project

1 (including the issuance or denial of a per-
2 mit or license);

3 (v) the cost of the project;

4 (vi) the sensitivity of the natural and
5 historic resources that could be affected by
6 the project; and

7 (vii) timelines and deadlines estab-
8 lished in this section and other applicable
9 law.

10 (F) MODIFICATIONS.—

11 (i) IN GENERAL.—Except as provided
12 in clause (iii), the lead agency may length-
13 en—

14 (I) a schedule established for a
15 project under subparagraph (D) for
16 good cause, in accordance with clause
17 (ii); or

18 (II) shorten a schedule estab-
19 lished for a project under subpara-
20 graph (D) if the lead agency has—

21 (aa) good cause; and

22 (bb) the concurrence of the
23 project sponsor and any partici-
24 pating agencies.

1 (ii) GOOD CAUSE.—Good cause to
2 lengthen a schedule under clause (i)(I)
3 may include—

4 (I) Federal law prohibiting the
5 lead agency or another agency from
6 issuing an approval or permit within
7 the period required under subpara-
8 graph (D);

9 (II) a request from the project
10 sponsor that the permit or approval
11 follow a different timeline; or

12 (III) a determination by the lead
13 agency, with the concurrence of the
14 project sponsor, that an extension
15 would facilitate completion of the en-
16 vironmental review process and au-
17 thorization process of the project.

18 (iii) EXCEPTIONS.—

19 (I) SHORTENING OF TIME PE-
20 RIOD.—A lead agency may not short-
21 en a schedule under clause (i)(II) if
22 shortening the schedule would impair
23 the ability of a participating agency—

24 (aa) to conduct any nec-
25 essary analysis; or

1 (bb) to otherwise carry out
2 any relevant obligation of the
3 participating agency for the
4 project.

5 (II) MAJOR PROJECTS.—In the
6 case of a major project, the lead agen-
7 cy may lengthen a schedule for a
8 project under subparagraph (D) for a
9 Federal participating agency by not
10 more than 1 year after the latest
11 deadline established for the major
12 project by the lead agency.

13 (III) COORDINATION PLANS
14 PRIOR TO NOTICE OF INTENT.—In the
15 case of a schedule established for a
16 project under subparagraph (D) prior
17 to the publication of a notice of in-
18 tent, the lead agency may adjust the
19 schedule, with the concurrence of par-
20 ticipating agencies and the participa-
21 tion of the project sponsor, until the
22 date of publication of the notice of in-
23 tent.

24 (G) FAILURE TO MEET SCHEDULE OR
25 DEADLINE.—If a participating Federal agency

1 fails to meet a schedule or deadline established
2 under subparagraph (D), not later than 30
3 days after the missed schedule or deadline, the
4 participating Federal agency shall—

5 (i) notify—

6 (I) the Director of the Office of
7 Management and Budget;

8 (II) the Executive Director of the
9 Federal Permitting Improvement
10 Steering Council;

11 (III) the Secretary concerned;

12 (IV) the Committee on Energy
13 and Natural Resources of the Senate;

14 (V) the Committee on Environ-
15 ment and Public Works of the Senate;

16 (VI) the Committee on Natural
17 Resources of the House of Represent-
18 atives; and

19 (VII) the Committee on Energy
20 and Commerce of the House of Rep-
21 resentatives; and

22 (ii) include in the notifications under
23 clause (i)—

24 (I) a description of the cause for
25 the failure; and

1 (II) a new schedule or deadline
2 agreed on by the project sponsor, the
3 lead agency, and cooperating agencies.

4 (H) DISSEMINATION.—A copy of a sched-
5 ule for a project under subparagraph (D), and
6 any modifications to such a schedule, shall be—

7 (i) provided to—

8 (I) all participating agencies; and

9 (II) the project sponsor; and

10 (ii) in the case of a schedule for a
11 major project under that subparagraph,
12 made available to the public pursuant to
13 subsection (I).

14 (I) NO DELAY IN DECISION MAKING.—No
15 agency shall seek to encourage a sponsor of a
16 project to withdraw or resubmit an application
17 to delay decision making within the timelines
18 under this subsection.

19 (2) COMMENT DEADLINES.—The lead agency
20 shall establish the following deadlines for comment
21 during the environmental review process for a
22 project:

23 (A) For comments by agencies and the
24 public on a draft environmental impact state-
25 ment, a period of not more than 60 days after

1 publication in the Federal Register of a notice
2 of the date of public availability of the draft,
3 unless—

4 (i) a different deadline is established
5 by agreement of the lead agency, the
6 project sponsor, and all participating agen-
7 cies; or

8 (ii) the deadline is extended by the
9 lead agency for good cause, together with
10 a documented and publicly available expla-
11 nation of the need for an extended com-
12 ment period.

13 (B) For all other comment periods estab-
14 lished by the lead agency for agency or public
15 comment for a Federal authorization or in the
16 environmental review process, a period of not
17 more than 45 days beginning on the first date
18 of availability of the materials regarding which
19 comment is requested, unless a different dead-
20 line of not more than 60 days is established by
21 agreement of the lead agency and all partici-
22 pating agencies, in consultation with the project
23 sponsor.

24 (3) PUBLIC INVOLVEMENT.—Nothing in this
25 section—

1 (A) reduces any time period provided for—

2 (i) public comment in the environ-
3 mental review process; or

4 (ii) an authorization for a project
5 under applicable Federal law;

6 (B) creates a requirement for an additional
7 public comment opportunity in addition to any
8 public comment opportunity required for a
9 project under applicable Federal law; or

10 (C) creates a new requirement for public
11 comment on a project for which an environ-
12 mental assessment is being prepared.

13 (4) CATEGORICAL EXCLUSIONS.—Nothing in
14 this subsection affects or creates new requirements
15 for a project or activity that is eligible for a categor-
16 ical exclusion.

17 (5) DEADLINE ENFORCEMENT.—

18 (A) DEFINITION OF APPLICABLE DEAD-
19 LINE.—In this paragraph, the term “applicable
20 deadline” means a deadline—

21 (i) for the environmental review proc-
22 ess for a major project required under
23 paragraph (1)(D)(ii)(I);

1 (ii) for a decision on an authorization
2 for a major project required under para-
3 graph (1)(D)(ii)(II); or

4 (iii) described in clause (i) or (ii) that
5 has been modified under paragraph (1)(F).

6 (B) PETITION TO COURT.—A project spon-
7 sor may obtain a review of an alleged failure by
8 a Federal agency, or a State agency acting pur-
9 suant to Federal law, to act in accordance with
10 an applicable deadline under this section by fil-
11 ing a written petition with a court of competent
12 jurisdiction seeking an order under subpara-
13 graph (C).

14 (C) COURT ORDER.—If a court of com-
15 petent jurisdiction finds that a Federal agency,
16 or a State agency acting pursuant to Federal
17 law, has failed to act in accordance with an ap-
18 plicable deadline, the court shall set a schedule
19 and deadline for the agency to act as soon as
20 practicable, which shall not exceed 90 days
21 from the date on which the order of the court
22 is issued, unless the court determines a longer
23 time period is necessary to comply with applica-
24 ble law.

1 (D) JURISDICTION.—The United States
2 Court of Appeals for the District of Columbia
3 shall have original jurisdiction over any civil ac-
4 tion brought pursuant to subparagraph (B), in
5 addition to any court of competent jurisdiction
6 under any other Federal law.

7 (E) EXPEDITED CONSIDERATION.—A
8 court of competent jurisdiction shall set for ex-
9 pedited consideration any action brought under
10 this subsection.

11 (h) ISSUE IDENTIFICATION AND RESOLUTION.—

12 (1) COOPERATION.—The lead agency and each
13 participating agency shall work cooperatively in ac-
14 cordance with this section to facilitate the timely
15 completion of the environmental review and author-
16 ization process by identifying and resolving issues
17 that could—

18 (A) delay final decision making for any au-
19 thorization for a project;

20 (B) delay completion of the environmental
21 review process for a project; or

22 (C) result in the denial of any authoriza-
23 tion required for the project under applicable
24 law.

1 (2) ACCELERATED ISSUE RESOLUTION AND RE-
2 FERRAL.—

3 (A) IN GENERAL.—A participating agency,
4 project sponsor, or the Governor of a State in
5 which a project is located may request an issue
6 resolution meeting to resolve issues relating to
7 a project that could—

8 (i) delay final decision making for any
9 authorization for a project;

10 (ii) significantly delay completion of
11 the environmental review process for a
12 project; or

13 (iii) result in the denial of any author-
14 ization required for the project under ap-
15 plicable law.

16 (B) INITIAL MEETING.—Not later than 30
17 days after the date of receipt of a request under
18 subparagraph (A), the lead agency shall con-
19 vene an issue resolution meeting, which shall in-
20 clude—

21 (i) the relevant participating agencies;

22 (ii) the project sponsor; and

23 (iii) the Governor of a State in which
24 the project is located, if the Governor re-

1 requested the issue resolution meeting under
2 that subparagraph.

3 (C) ELEVATION.—If issue resolution is not
4 achieved by 30 days after the date of the initial
5 meeting under subparagraph (B), the issue
6 shall be elevated to the head of the lead agency,
7 who shall—

8 (i) notify—

9 (I) the heads of the relevant par-
10 ticipating agencies;

11 (II) the project sponsor; and

12 (III) the Governor of a State in
13 which the project is located, if the
14 Governor requested the issue resolu-
15 tion meeting under subparagraph (A);

16 and

17 (ii) convene a leadership issue resolu-
18 tion meeting not later than 90 days after
19 the date of the initial meeting under sub-
20 paragraph (B) with—

21 (I) the heads of the relevant par-
22 ticipating agencies, including any rel-
23 evant Secretaries;

24 (II) the project sponsor; and

1 (III) the Governor of a State in
2 which the project is located, if the
3 Governor requested the issue resolu-
4 tion meeting under subparagraph (A).

5 (D) CONVENTION BY LEAD AGENCY.—A
6 lead agency may convene an issue resolution
7 meeting at any time to resolve issues relating to
8 an authorization or environmental review proc-
9 ess for a project, without the request of a par-
10 ticipating agency, project sponsor, or the Gov-
11 ernor of a State in which the project is located.

12 (E) REFERRAL OF ISSUE RESOLUTION FOR
13 MAJOR PROJECTS TO COUNCIL ON ENVIRON-
14 MENTAL QUALITY.—

15 (i) IN GENERAL.—If issue resolution
16 for a major project is not achieved by 30
17 days after the date on which a leadership
18 issue resolution meeting is convened under
19 subparagraph (C), the head of the lead
20 agency shall refer the matter to the Coun-
21 cil on Environmental Quality.

22 (ii) MEETING.—Not later than 30
23 days after the date of receipt of a referral
24 from the head of the lead agency under
25 clause (i), the Council on Environmental

1 Quality shall convene an issue resolution
2 meeting with—

3 (I) the head of the lead agency;

4 (II) the heads of relevant partici-
5 pating agencies;

6 (III) the project sponsor; and

7 (IV) the Governor of a State in
8 which the major project is located, if
9 the Governor requested the issue reso-
10 lution meeting under subparagraph
11 (A).

12 (F) CONSISTENCY WITH OTHER LAW.—An
13 agency shall implement the requirements of this
14 paragraph—

15 (i) unless doing so would prevent the
16 compliance of the agency with existing law;
17 and

18 (ii) consistent with, to the maximum
19 extent permitted by law, any dispute reso-
20 lution process established in an applicable
21 law, regulation, or legally binding agree-
22 ment.

23 (G) EFFECT OF PARAGRAPH.—Nothing in
24 this paragraph limits the application of section
25 41003 of the FAST Act (42 U.S.C. 4370m-2)

1 to a covered project (as defined in section
2 41001 of that Act (42 U.S.C. 4370m)) that is
3 a project subject to the requirements of this
4 section, including with respect to dispute resolu-
5 tion procedures regarding a permitting time-
6 table.

7 (i) ENHANCED TECHNICAL ASSISTANCE FROM LEAD
8 AGENCY.—

9 (1) DEFINITION OF COVERED PROJECT.—In
10 this subsection, the term “covered project” means a
11 project—

12 (A) that has a pending environmental re-
13 view or authorization under NEPA; and

14 (B) for which the lead agency determines
15 a delay to the schedule established under sub-
16 section (g) is likely.

17 (2) TECHNICAL ASSISTANCE.—At the request of
18 a project sponsor, participating agency, or the Gov-
19 ernor of a State in which a covered project is lo-
20 cated, the head of the lead agency may provide tech-
21 nical assistance to resolve any outstanding issues
22 that are resulting in project delay for the covered
23 project, including by—

24 (A) providing additional staff, training,
25 and expertise;

- 1 (B) facilitating interagency coordination;
2 (C) promoting more efficient collaboration;
3 and
4 (D) supplying specialized onsite assistance.

5 (3) SCOPE OF WORK.—In providing technical
6 assistance for a covered project under this sub-
7 section, the head of the lead agency shall establish
8 a scope of work that describes the actions that the
9 head of the lead agency will take to resolve the out-
10 standing issues and project delays.

11 (4) CONSULTATION.—In providing technical as-
12 sistance for a covered project under this subsection,
13 the head of the lead agency shall consult, if appro-
14 priate, with participating agencies on all methods
15 available to resolve any outstanding issues and
16 project delays for a covered project as expeditiously
17 as practicable.

18 (j) JUDICIAL REVIEW.—Except as provided in sub-
19 section (k), nothing in this section affects the reviewability
20 of any final Federal agency action in a court of—

- 21 (1) the United States; or
22 (2) any State.

23 (k) EFFICIENCY OF CLAIMS.—

24 (1) STATUTE OF LIMITATIONS.—Notwith-
25 standing any other provision of law, a claim arising

1 under Federal law seeking judicial review of an au-
2 thorization issued or denied by a Federal agency for
3 a project shall be barred unless the claim is filed by
4 150 days after the later of the date on which the au-
5 thorization is final in accordance with the law under
6 which the agency action is taken and the date of
7 publication of a notice that the environmental docu-
8 ment is final in accordance with NEPA, unless a
9 shorter time is specified in the Federal law pursuant
10 to which judicial review is allowed.

11 (2) EXPEDITED REVIEW.—A court of com-
12 petent jurisdiction shall set for expedited consider-
13 ation any claim arising under Federal law seeking
14 judicial review of an authorization issued or denied
15 by a Federal agency, or a State agency acting pur-
16 suant to Federal law, for a project.

17 (3) REMANDED ACTIONS.—

18 (A) IN GENERAL.—If a court of competent
19 jurisdiction remands a final Federal agency ac-
20 tion for a project to the Federal agency, the
21 court shall set a reasonable schedule and dead-
22 line for the agency to act on remand, which
23 shall not exceed 180 days from the date on
24 which the order of the court was issued, unless

1 a longer time period is necessary to comply with
2 applicable law.

3 (B) EXPEDITED TREATMENT OF RE-
4 MANDED ACTIONS.—The head of the Federal
5 agency to which a court remands a final Fed-
6 eral agency action under subparagraph (A)
7 shall take such actions as may be necessary to
8 provide for the expeditious disposition of the ac-
9 tion on remand in accordance with the schedule
10 and deadline set by the court under that sub-
11 paragraph.

12 (4) RANDOM ASSIGNMENT OF CASES.—To the
13 maximum extent practicable, district courts of the
14 United States and courts of appeals of the United
15 States shall randomly assign cases seeking judicial
16 review of any authorization issued by a Federal
17 agency for a project to judges appointed, designated,
18 or assigned to sit as judges of the court in a manner
19 to avoid the appearance of favoritism or bias.

20 (5) EFFECT OF SUBSECTION.—Nothing in this
21 subsection—

22 (A) establishes a right to judicial review;
23 or

1 (B) places any limit on filing a claim that
2 a person has violated the terms of an authoriza-
3 tion.

4 (6) TREATMENT OF SUPPLEMENTAL OR RE-
5 VISED ENVIRONMENTAL DOCUMENTS.—With respect
6 to a project—

7 (A) the preparation of a supplemental or
8 revised environmental document for the project,
9 when required, shall be considered to be a sepa-
10 rate final agency action for purposes of the
11 deadline under subparagraph (B); and

12 (B) the deadline for filing a claim for judi-
13 cial review of that action shall be the date that
14 is 150 days after the date of publication of a
15 notice in the Federal Register announcing the
16 final agency action, unless a shorter time is
17 specified in the Federal law pursuant to which
18 judicial review is authorized.

19 (l) IMPROVING TRANSPARENCY IN PROJECT STA-
20 TUS.—

21 (1) IN GENERAL.—Not later than 120 days
22 after the date of enactment of this Act, the Sec-
23 retary concerned shall—

24 (A) use the searchable internet website
25 maintained under section 41003(b) of the

1 FAST Act (42 U.S.C. 4370m–2(b)) to make
2 publicly available—

3 (i) the status, schedule, and progress
4 of each major project, including a project
5 for which an authorization is being sought
6 or that is subject to an environmental re-
7 view process initiated prior to the date of
8 enactment of this Act, with respect to com-
9 pliance with the applicable requirements of
10 NEPA, any authorization, and any other
11 Indian Tribe, State, or local agency au-
12 thorization required for the major project;
13 and

14 (ii) a list of the participating agencies
15 for each major project; and

16 (B) establish such reporting standards as
17 are necessary to meet the requirements of sub-
18 paragraph (A), which shall include require-
19 ments—

20 (i) to track major projects from initi-
21 ation through the date that final author-
22 izations required to begin construction are
23 issued or the major project is withdrawn;
24 and

1 (ii) to update the status, schedule,
2 and progress of major projects to reflect
3 any changes to the project status or sched-
4 ule, including changes resulting from liti-
5 gation (including any injunctions, vacatur
6 of authorizations, and timelines for any ad-
7 ditional authorization or environmental re-
8 view process that is required as a result of
9 litigation).

10 (2) FEDERAL, STATE, AND LOCAL AGENCY PAR-
11 TICIPATION.—

12 (A) FEDERAL AGENCIES.—A Federal
13 agency participating in the environmental re-
14 view process or authorization process for a
15 major project shall provide to the Secretary
16 concerned information relating to the status
17 and progress of the authorization of the major
18 project for publication on the internet website
19 referred to in paragraph (1)(A), consistent with
20 the standards established under paragraph
21 (1)(B).

22 (B) STATE AND LOCAL AGENCIES.—The
23 Secretary concerned shall encourage State and
24 local agencies participating in the environ-
25 mental review process or authorization process

1 for a major project to provide information relat-
2 ing to the status and progress of the authoriza-
3 tion of the major project for publication on the
4 internet website referred to in paragraph
5 (1)(A).

6 (m) ACCOUNTABILITY AND REPORTING FOR MAJOR
7 PROJECTS.—Each Secretary concerned shall—

8 (1) not later than 1 year after the date of en-
9 actment of this Act, establish a performance ac-
10 countability system for the agency represented by
11 the Secretary concerned; and

12 (2) on establishment of the performance ac-
13 countability system under paragraph (1), and not
14 less frequently than annually thereafter, publish a
15 report describing performance accountability for
16 each major project authorization and review con-
17 ducted during the preceding year by the agency rep-
18 resented by the Secretary concerned, including—

19 (A) for each major project for which that
20 agency serves as a lead agency or a partici-
21 pating agency, the extent to which the agency
22 is achieving compliance with each schedule es-
23 tablished under this section for an authoriza-
24 tion, environmental review process, or consulta-
25 tion;

1 (B) for each major project for which that
2 agency serves as a lead agency, information re-
3 garding the average time required to complete
4 each applicable authorization and the environ-
5 mental review process; and

6 (C) for each major project for which that
7 agency serves as a participating agency with ju-
8 risdiction over an authorization, information re-
9 garding the average time required to complete
10 the authorization process.

11 (n) PROGRAMMATIC COMPLIANCE.—

12 (1) IN GENERAL.—The Secretary concerned
13 shall allow for the use of programmatic approaches
14 to conduct environmental reviews that—

15 (A) eliminate repetitive discussions of the
16 same issue;

17 (B) focus on the issues ripe for analysis at
18 each level of review; and

19 (C) are consistent with—

20 (i) NEPA; and

21 (ii) other applicable laws.

22 (2) REQUIREMENTS.—In carrying out this sub-
23 section, each lead agency shall ensure that pro-
24 grammatic approaches to conduct environmental re-
25 view processes—

1 (A) promote transparency, including the
2 transparency of—

3 (i) the analyses and data used in the
4 environmental review process;

5 (ii) the treatment of any deferred
6 issues raised by agencies or the public; and

7 (iii) the temporal and spatial scales to
8 be used to analyze issues under clauses (i)
9 and (ii);

10 (B) use accurate and timely information,
11 including through the establishment of—

12 (i) criteria for determining the general
13 duration of the usefulness of the environ-
14 mental review process; and

15 (ii) a timeline for updating any out-of-
16 date environmental review process;

17 (C) describe—

18 (i) the relationship between any pro-
19 grammatic analysis and future tiered anal-
20 ysis; and

21 (ii) the role of the public in the cre-
22 ation of future tiered analyses;

23 (D) are available to other relevant Federal
24 and State agencies, Indian Tribes, Alaska Na-
25 tive Corporations, and the public; and

1 (E) provide notice and public comment op-
2 portunities consistent with applicable require-
3 ments.

4 (o) DEVELOPMENT OF CATEGORICAL EXCLU-
5 SIONS.—

6 (1) IN GENERAL.—Not later than 180 days
7 after the date of enactment of this Act, and not less
8 frequently than once every 4 years thereafter, each
9 Secretary concerned, in consultation with the Chair
10 of the Council on Environmental Quality, shall—

11 (A) in consultation with the other agencies
12 described in paragraph (2), as applicable, iden-
13 tify each categorical exclusion available to such
14 an agency that would accelerate delivery of a
15 project if the categorical exclusion was available
16 to the Secretary concerned; and

17 (B) collect existing documentation and
18 substantiating information relating to each cat-
19 egorical exclusion identified under subpara-
20 graph (A).

21 (2) DESCRIPTION OF AGENCIES.—The agencies
22 referred to in paragraph (1) are—

23 (A) the Department of Agriculture;

24 (B) the Department of the Army;

25 (C) the Department of Commerce;

- 1 (D) the Department of Defense;
- 2 (E) the Department of Energy;
- 3 (F) the Department of the Interior;
- 4 (G) the Federal Energy Regulatory Com-
- 5 mission; and
- 6 (H) any other Federal agency that has
- 7 participated in an environmental review process
- 8 for a project, as determined by the Chair of the
- 9 Council on Environmental Quality.

10 (3) ADOPTION OF CATEGORICAL EXCLU-

11 SIONS.—Not later than 1 year after the date on

12 which categorical exclusions are identified under

13 paragraph (1)(A), each Secretary concerned shall—

14 (A) determine whether any such categor-

15 ical exclusion meets the applicable criteria for a

16 categorical exclusion under—

17 (i) the NEPA implementing regula-

18 tions; and

19 (ii) any relevant regulations of the

20 agency represented by the Secretary con-

21 cerned; and

22 (B) publish a notice of proposed rule-

23 making to propose the adoption of any identi-

24 fied categorical exclusion that—

1 (i) is applicable to the agency rep-
2 resented by the Secretary concerned; and

3 (ii) meets the applicable criteria de-
4 scribed in subparagraph (A).

5 (p) ADDITIONS TO CATEGORICAL EXCLUSIONS.—

6 (1) IN GENERAL.—Not later than 180 days
7 after the date of enactment of this Act, and not
8 later than 5 years thereafter, each Secretary con-
9 cerned shall—

10 (A) conduct a survey regarding the use by
11 the agency represented by the Secretary con-
12 cerned of categorical exclusions for projects
13 during the 5-year period preceding the date of
14 the survey;

15 (B) publish a review of the survey under
16 subparagraph (A) that includes a description
17 of—

18 (i) the types of actions eligible for
19 each categorical exclusion covered by the
20 survey; and

21 (ii) any requests previously received
22 by the Secretary concerned for new cat-
23 egorical exclusions; and

24 (C) solicit requests for new categorical ex-
25 clusions.

1 (2) NEW CATEGORICAL EXCLUSIONS.—Not
2 later than 120 days after the date of a solicitation
3 of requests under paragraph (1)(C), the Secretary
4 concerned shall publish a notice of proposed rule-
5 making to propose the adoption of any such new cat-
6 egorical exclusions, to the extent that the categorical
7 exclusions meet the applicable criteria for a categor-
8 ical exclusions under—

- 9 (A) the NEPA implementing regulations;
10 and
11 (B) any relevant regulations of the agency
12 represented by the Secretary concerned.

13 **SEC. 103. PRIORITIZING ENERGY PROJECTS OF STRATEGIC**
14 **NATIONAL IMPORTANCE.**

15 (a) DEFINITIONS.—In this section:

16 (1) CRITICAL MINERAL.—The term “critical
17 mineral” has the meaning given the term in section
18 7002(a) of the Energy Act of 2020 (30 U.S.C.
19 1606(a)).

20 (2) DESIGNATED PROJECT.—The term “des-
21 ignated project” means an energy project of stra-
22 tegic national importance designated for priority
23 Federal review under subsection (b).

24 (b) DESIGNATION OF PROJECTS.—

1 (1) IN GENERAL.—Not later than 90 days after
2 the date of enactment of this Act, the President, in
3 consultation with the Secretary of Energy, the Sec-
4 retary of the Interior, the Administrator of the Envi-
5 ronmental Protection Agency, the Federal Energy
6 Regulatory Commission, and the heads of any other
7 relevant Federal departments or agencies, as deter-
8 mined by the President, shall—

9 (A) designate 25 energy projects of stra-
10 tegic national importance for priority Federal
11 review, in accordance with this section; and

12 (B) publish a list of those designated
13 projects in the Federal Register.

14 (2) UPDATES.—Not later than 180 days after
15 the date on which the President publishes the list
16 under paragraph (1)(B), and every 180 days there-
17 after during the 10-year period beginning on that
18 date, the President shall publish an updated list,
19 which shall—

20 (A) include not less than 25 designated
21 projects; and

22 (B) include each previously designated
23 project until—

1 (i) a final decision has been issued for
2 each authorization for the designated
3 project; or

4 (ii) the project sponsor withdraws its
5 request for authorization.

6 (3) PROJECT TYPES; FIRST 7 YEARS.—During
7 the 7-year period beginning on the date on which the
8 President publishes the list under paragraph (1)(B),
9 of the list of designated projects maintained on an
10 ongoing basis pursuant to this subsection, not fewer
11 than—

12 (A) 5 shall be projects for the mining, ex-
13 traction, beneficiation, or processing of critical
14 minerals—

15 (i) of which not fewer than 3 shall in-
16 clude new mining or extraction of critical
17 minerals; and

18 (ii) for which critical mineral produc-
19 tion may occur as a byproduct;

20 (B) 7 shall be projects—

21 (i) to generate electricity or store en-
22 ergy without the use of fossil fuels; or

23 (ii) to manufacture clean energy
24 equipment;

1 (C) 6 shall be projects to produce, process,
2 transport, or store fossil fuel products, or
3 biofuels, including projects to export or import
4 those products from nations described in sub-
5 section (c)(3)(A)(vi);

6 (D) 3 shall be electric transmission
7 projects or projects using grid-enhancing tech-
8 nology;

9 (E) 2 shall be projects to capture, trans-
10 port, or store carbon dioxide, which may include
11 the utilization of captured or displaced carbon
12 dioxide emissions; and

13 (F) 2 shall be a project to produce, trans-
14 port, or store clean hydrogen, including projects
15 to export or import those products from nations
16 described in subsection (c)(3)(A)(vi).

17 (4) PROJECT TYPES; PHASE-DOWN.—During
18 the 3-year period beginning 7 years after the date on
19 which the President publishes the list under para-
20 graph (1)(B), of the list of designated projects main-
21 tained on an ongoing basis pursuant to this sub-
22 section, not fewer than—

23 (A) 2 shall be projects for the mining, ex-
24 traction, beneficiation, or processing of critical
25 minerals;

1 (B) 3 shall be projects described in para-
2 graph (3)(B);

3 (C) 3 shall be projects described in para-
4 graph (3)(C);

5 (D) 1 shall be a project described in para-
6 graph (3)(D);

7 (E) 1 shall be a project described in para-
8 graph (3)(E); and

9 (F) 1 shall be a project described in para-
10 graph (3)(F).

11 (5) LIST OF PROJECTS MEETING EACH CAT-
12 EGORY THRESHOLD; INSUFFICIENT APPLICA-
13 TIONS.—

14 (A) IN GENERAL.—Subject to subpara-
15 graph (B), during the 10-year period beginning
16 on the date on which the President publishes
17 the list under paragraph (1)(B), the President
18 shall maintain a list of designated projects that
19 meet the minimum threshold for the applicable
20 category of projects under each subparagraph
21 of paragraph (3) or (4), as applicable.

22 (B) INSUFFICIENT APPLICATIONS.—If the
23 number of applications submitted that meet the
24 requirements for a designated project for a cat-
25 egory of projects under a subparagraph of para-

1 graph (3) or (4), as applicable, is not sufficient
2 to meet the minimum threshold under that sub-
3 paragraph, the President shall designate the
4 maximum number of applications submitted
5 that meet the requirements for a designated
6 project for the applicable category until a suffi-
7 cient number of applications meeting the re-
8 quirements for a designated project for such
9 category has been submitted.

10 (c) SELECTION AND PRIORITY REQUIREMENTS.—

11 (1) IN GENERAL.—The President shall carry
12 out subsection (b) based on a review of applications
13 for authorizations or other reviews submitted to the
14 Corps of Engineers, the Department of Defense, the
15 Department of Energy, the Department of the Inte-
16 rior, the Environmental Protection Agency, the For-
17 est Service, the Federal Energy Regulatory Commis-
18 sion, the Nuclear Regulatory Commission, the Mari-
19 time Administration, the Pipeline and Hazardous
20 Materials Safety Administration, and the Federal
21 Permitting Improvement Steering Council.

22 (2) REQUIREMENT.—The President shall des-
23 ignate under subsection (b) only projects that the
24 President determines are likely—

1 (A) to require an environmental assess-
2 ment or environmental impact statement under
3 NEPA;

4 (B) to require review by more than 2 Fed-
5 eral or State agencies;

6 (C) to have a total project cost of more
7 than \$250,000,000; and

8 (D) to have sufficient financial support
9 from the project sponsor to ensure project com-
10 pletion.

11 (3) PRIORITY.—

12 (A) IN GENERAL.—In considering projects
13 to designate under subsection (b), the President
14 shall give priority to projects the completion of
15 which will significantly advance 1 or more of
16 the following objectives:

17 (i) Reducing energy prices in the
18 United States.

19 (ii) Reducing greenhouse gas emis-
20 sions.

21 (iii) Improving electric reliability in
22 North America.

23 (iv) Advancing emerging energy tech-
24 nologies.

1 (v) Improving the domestic supply
2 chains for, and manufacturing of, energy
3 products, energy equipment, and critical
4 minerals.

5 (vi) Increasing energy trade between
6 the United States and—

7 (I) nations that are signatories to
8 free trade agreements with the United
9 States that cover the trade of energy
10 products;

11 (II) members of the North Atlan-
12 tic Treaty Organization;

13 (III) members of the Organiza-
14 tion for Economic Cooperation and
15 Development;

16 (IV) nations with a transmission
17 system operator that is included in
18 the European Network of Trans-
19 mission System Operators for Elec-
20 tricity, including as an observer mem-
21 ber; or

22 (V) any other country designated
23 as an ally or partner nation by the
24 President for purposes of this section.

1 (vii) Reducing the reliance of the
2 United States on the supply chains of for-
3 eign entities of concern (as defined in sec-
4 tion 40207(a) of the Infrastructure Invest-
5 ment and Jobs Act (42 U.S.C. 18741(a))).

6 (viii) To the extent practicable, mini-
7 mizing development impacts through the
8 use of existing—

9 (I) rights-of-way;

10 (II) facilities; or

11 (III) other infrastructure.

12 (ix) Creating jobs—

13 (I) with wages at rates not less
14 than those prevailing on similar
15 projects in the locality, as determined
16 by the Secretary of Labor in accord-
17 ance with subchapter IV of chapter 31
18 of title 40, United States Code (com-
19 monly referred to as the “Davis-
20 Bacon Act”); and

21 (II) with consideration of the
22 magnitude and timing of the direct
23 and indirect employment impacts of
24 carrying out the project.

1 (B) OTHER PRIORITY.—In considering
2 projects to designate for the category of
3 projects described in subsection (b)(3)(C), in
4 addition to the priorities specified in subpara-
5 graph (A), the President shall give priority to
6 projects the completion of which will signifi-
7 cantly reduce greenhouse gas emissions.

8 (d) REVIEWS OF DESIGNATED PROJECTS.—

9 (1) IN GENERAL.—The President shall, in con-
10 sultation with the applicable department and agency
11 heads, the Director of the Office of Management and
12 Budget, the Chair of the Council on Environmental
13 Quality, and the Federal Permitting Improvement
14 Steering Council, direct Federal agencies through
15 executive order to prioritize the completion of the
16 environmental review process and decisions on au-
17 thorizations for designated projects.

18 (2) TIMELINES.—To the maximum extent prac-
19 ticable and consistent with applicable Federal law,
20 the President shall complete—

21 (A) the environmental review process—

22 (i) in the case of a designated project
23 for which the lead agency determines an
24 environmental impact statement is re-
25 quired, not later than 2 years after the

1 date of publication by the lead agency of a
2 notice of intent to prepare an environ-
3 mental impact statement to the record of
4 decision; and

5 (ii) in the case of a designated project
6 for which the lead agency determines an
7 environmental assessment is required, not
8 later than 1 year after the date on which
9 the head of the lead agency determines
10 that an environmental assessment is re-
11 quired to a finding of no significant im-
12 pact; and

13 (B) decisions on any outstanding author-
14 ization required for project construction within
15 180 days of the issuance of a record of decision
16 or finding of no significant impact under sub-
17 paragraph (A).

18 (3) STREAMLINING REVIEW PROCESS.—A des-
19 igned project shall be considered a major project
20 (as defined in section 102(a)) subject to the require-
21 ments of that section.

22 (e) NEPA.—

23 (1) IN GENERAL.—Nothing in this section su-
24 persedes or modifies any applicable requirement, au-

1 thority, or agency responsibility provided under
2 NEPA.

3 (2) DESIGNATION OF PROJECTS.—The act of
4 designating a project under subsections (b) and (c)
5 shall not be subject to the National Environmental
6 Policy Act of 1969 (42 U.S.C. 4321 et seq.).

7 (f) REPORT.—Not later than 180 days after the date
8 of enactment of this Act, and every 90 days thereafter,
9 the President shall submit to the Committee on Energy
10 and Natural Resources and the Committee on Environ-
11 ment and Public Works of the Senate and the Committee
12 on Energy and Commerce and the Committee on Natural
13 Resources of the House of Representatives a report de-
14 scribing—

15 (1) each designated project and the basis for
16 designating that project pursuant to subsection (c);

17 (2) for each designated project, all outstanding
18 authorizations, environmental reviews, consultations,
19 public comment periods, or other Federal, State, or
20 local reviews required for project completion; and

21 (3) for each authorization, environmental re-
22 view, consultation, public comment period, or other
23 review under paragraph (2)—

24 (A) an estimated completion date; and

25 (B) an explanation of—

1 (i) any delays meeting the timelines
2 established in this section or in applicable
3 Federal, State, or local law; and

4 (ii) any changes to the date described
5 in subparagraph (A) from a report pre-
6 viously submitted under this subsection.

7 (g) FUNDING.—

8 (1) IN GENERAL.—Out of amounts appro-
9 priated under section 70007 of Public Law 117–169
10 to the Environmental Review Improvement Fund es-
11 tablished under section 41009(d)(1) of the FAST
12 Act (42 U.S.C. 4370m–8(d)(1)), \$250,000,000 shall
13 be used to provide funding to agencies to support
14 more efficient, accurate, and timely reviews of des-
15 ignated projects in accordance with paragraph (2).

16 (2) USE OF FUNDS.—The Federal Permitting
17 Improvement Steering Council shall prescribe the
18 use of funds provided to agencies under paragraph
19 (1), which may include—

20 (A) the hiring and training of personnel;

21 (B) the development of programmatic doc-
22 uments;

23 (C) the procurement of technical or sci-
24 entific services for environmental reviews;

1 (D) the development of data or informa-
2 tion systems;

3 (E) stakeholder and community engage-
4 ment;

5 (F) the purchase of new equipment for
6 analysis; and

7 (G) the development of geographic infor-
8 mation systems and other analytical tools, tech-
9 niques, and guidance to improve agency trans-
10 parency, accountability, and public engagement.

11 (3) LIMITATION.—Of the amounts made avail-
12 able under paragraph (1) for a fiscal year, not more
13 than \$1,500,000 shall be allocated to support the re-
14 view of a single designated project.

15 (4) SUPPLEMENT NOT SUPPLANT.—Funds ap-
16 propriated under this subsection shall be used in ad-
17 dition to existing funding mechanisms, including
18 agency user fees and application fees.

19 **SEC. 104. EMPOWERING THE FEDERAL PERMITTING IM-**
20 **PROVEMENT STEERING COUNCIL AND IM-**
21 **PROVING REVIEWS.**

22 (a) DEFINITION OF COVERED PROJECT.—Section
23 41001(6)(A) of the FAST Act (42 U.S.C. 4370m(6)(A))
24 is amended—

1 (1) in the matter preceding clause (i), by insert-
2 ing “critical mineral mining, production,
3 beneficiation, or processing,” before “electricity
4 transmission”; and

5 (2) in clause (i), by striking subclause (II) and
6 inserting the following:

7 “(II) is likely to require a total invest-
8 ment of—

9 “(aa) more than \$200,000,000;

10 or

11 “(bb) in the case of a project for
12 the construction, production, trans-
13 portation, storage, or generation of
14 energy, more than \$50,000,000; and”.

15 (b) TRANSPARENCY.—Section 41003(b)(2)(A)(iii) of
16 the FAST Act (42 U.S.C. 4370m–2(b)(2)(A)(iii)) is
17 amended by adding at the end the following:

18 “(III) OUTER CONTINENTAL
19 SHELF LANDS ACT.—The Secretary of
20 the Interior shall create and maintain
21 a specific entry on the Dashboard for
22 the preparation and revision of the oil
23 and gas leasing program required
24 under section 18 of the Outer Conti-

1 nental Shelf Lands Act (43 U.S.C.
2 1344).

3 “(IV) ADDITIONAL ENERGY
4 PROJECTS.—The Secretary of the In-
5 terior or the Secretary of Energy, as
6 applicable, shall create and maintain a
7 specific entry on the Dashboard for
8 any project that is a designated
9 project (as defined in section 103(a)
10 of the Building American Energy Se-
11 curity Act of 2023) for which a notice
12 of initiation under subsection
13 (a)(1)(A) has not been submitted, un-
14 less the project is already included on
15 the Dashboard as a covered project.”.

16 **SEC. 105. LITIGATION TRANSPARENCY.**

17 (a) DEFINITIONS.—In this section:

18 (1) COVERED CIVIL ACTION.—The term “cov-
19 ered civil action” means a civil action—

20 (A) seeking to compel agency action affect-
21 ing a project, as defined under section 102 of
22 this Act; and

23 (B) brought under—

24 (i) chapter 7 of title 5, United States
25 Code; or

1 (ii) any other statute authorizing such
2 an action.

3 (2) COVERED CONSENT DECREE.—The term
4 “covered consent decree” means a consent decree
5 entered into in a covered civil action.

6 (3) COVERED CONSENT DECREE OR SETTLE-
7 MENT AGREEMENT.—The term “covered consent de-
8 cree or settlement agreement” means a covered con-
9 sent decree and a covered settlement agreement.

10 (4) COVERED SETTLEMENT AGREEMENT.—The
11 term “covered settlement agreement” means a set-
12 tlement agreement entered into in a covered civil ac-
13 tion.

14 (b) TRANSPARENCY.—

15 (1) PLEADINGS AND PRELIMINARY MATTERS.—

16 (A) IN GENERAL.—In any covered civil ac-
17 tion, the agency against which the covered civil
18 action is brought shall publish the notice of in-
19 tent to sue and the complaint in a readily ac-
20 cessible manner, including by making the notice
21 of intent to sue and the complaint available on-
22 line not later than 15 days after receiving serv-
23 ice of the notice of intent to sue or complaint,
24 respectively.

1 (B) ENTRY OF A COVERED CONSENT DE-
2 CREE OR SETTLEMENT AGREEMENT.—A party
3 may not make a motion for entry of a covered
4 consent decree or to dismiss a civil action pur-
5 suant to a covered settlement agreement until
6 after the requirements of subparagraph (A)
7 have been met.

8 (2) PUBLICATION OF COVERED CONSENT DE-
9 CREES OR SETTLEMENT AGREEMENTS; PUBLIC COM-
10 MENT.—Not later than 30 days before the date on
11 which a covered consent decree or settlement agree-
12 ment is filed with a court, the agency seeking to
13 enter the covered consent decree or settlement agree-
14 ment shall—

15 (A) publish online the proposed covered
16 consent decree or settlement agreement; and

17 (B) provide a reasonable opportunity by
18 notice in the Federal Register to persons who
19 are not named as parties or interveners to the
20 covered civil action to comment in writing.

21 (c) CONSIDERATION OF PUBLIC COMMENT.—An
22 agency seeking to enter a covered consent decree or settle-
23 ment agreement shall promptly consider any written com-
24 ments received under subsection (b)(2)(B) and may with-
25 draw or withhold consent to the proposed consent decree

1 or settlement agreement if the comments disclose facts or
 2 considerations that indicate that the consent is inappro-
 3 priate, improper, inadequate, or inconsistent with any pro-
 4 vision of law.

5 **TITLE II—MODERNIZING**
 6 **PERMITTING LAWS**

7 **SEC. 201. TRANSMISSION.**

8 (a) CONSTRUCTION PERMIT.—Section 216 of the
 9 Federal Power Act (16 U.S.C. 824p) is amended by strik-
 10 ing subsection (b) and inserting the following:

11 “(b) CONSTRUCTION PERMIT.—Except as provided
 12 in subsections (d)(1) and (i), the Commission may, after
 13 notice and an opportunity for hearing, issue 1 or more
 14 permits for the construction or modification of electric
 15 transmission facilities necessary in the national interest if
 16 the Commission finds that—

17 “(1)(A) a State in which the transmission fa-
 18 cilities are to be constructed or modified does not
 19 have authority to—

20 “(i) approve the siting of the facilities; or

21 “(ii) consider the interstate benefits or
 22 interregional benefits expected to be achieved by
 23 the proposed construction or modification of
 24 transmission facilities in the State;

1 “(B) the applicant for a permit is a transmit-
2 ting utility under this Act but does not qualify to
3 apply for a permit or siting approval for the pro-
4 posed project in a State because the applicant does
5 not serve end-use customers in the State; or

6 “(C) a State commission or other entity that
7 has authority to approve the siting of the facilities—

8 “(i) has not made a determination on an
9 application seeking approval pursuant to appli-
10 cable law by the date that is 1 year after the
11 date on which the application was filed with the
12 State commission or other entity;

13 “(ii) has conditioned its approval in such a
14 manner that the proposed construction or modi-
15 fication will not significantly reduce trans-
16 mission capacity constraints or congestion in
17 interstate commerce or is not economically fea-
18 sible; or

19 “(iii) has denied an application seeking ap-
20 proval pursuant to applicable law;

21 “(2) the proposed facilities will be used for the
22 transmission of electric energy in interstate (includ-
23 ing transmission from the outer Continental Shelf to
24 a State) or foreign commerce;

1 “(3) the proposed construction or modification
2 is consistent with the public interest;

3 “(4) the proposed construction or modification
4 will—

5 “(A) significantly reduce transmission con-
6 gestion in interstate commerce; and

7 “(B) protect or benefit consumers;

8 “(5) the proposed construction or modifica-
9 tion—

10 “(A) is consistent with sound national en-
11 ergy policy; and

12 “(B) will enhance energy independence;
13 and

14 “(6) the proposed modification will maximize,
15 to the extent reasonable and economical, the trans-
16 mission capabilities of existing towers or struc-
17 tures.”.

18 (b) STATE SITING AND CONSULTATION.—Section
19 216 of the Federal Power Act (16 U.S.C. 824p) is amend-
20 ed by striking subsection (d) and inserting the following:

21 “(d) STATE SITING AND CONSULTATION.—

22 “(1) PRESERVATION OF STATE SITING AUTHOR-
23 ITY.—The Commission shall have no authority to
24 issue a permit under subsection (b) for the construc-
25 tion or modification of an electric transmission facil-

1 ity within a State except as provided in paragraph
2 (1) of that subsection.

3 “(2) CONSULTATION.—In any proceeding be-
4 fore the Commission under subsection (b), the Com-
5 mission shall afford each State in which a trans-
6 mission facility covered by the permit is or will be
7 located, each affected Federal agency and Indian
8 Tribe, private property owners, and other interested
9 persons a reasonable opportunity to present their
10 views and recommendations with respect to the need
11 for and impact of a facility covered by the permit.”.

12 (c) RIGHTS-OF-WAY.—Section 216(e) of the Federal
13 Power Act (16 U.S.C. 824p(e)) is amended—

14 (1) in paragraph (1), by striking “or a State”;
15 and

16 (2) by adding at the end the following:

17 “(5) Compensation for property taken under
18 this subsection shall be determined and awarded by
19 the district court of the United States in accordance
20 with section 3114(e) of title 40, United States
21 Code.”.

22 (d) COST ALLOCATION.—

23 (1) IN GENERAL.—Section 216 of the Federal
24 Power Act (16 U.S.C. 824p) is amended by striking
25 subsection (f) and inserting the following:

1 “(f) COST ALLOCATION.—

2 “(1) TRANSMISSION TARIFFS.—For the pur-
3 poses of this section, any transmitting utility that
4 owns, controls, or operates electric transmission fa-
5 cilities that the Commission finds to be consistent
6 with the findings under paragraphs (2) through (5)
7 and, if applicable, (6) of subsection (b) shall file a
8 tariff with the Commission in accordance with sec-
9 tion 205 and the regulations of the Commission allo-
10 cating the costs of the new or modified transmission
11 facilities.

12 “(2) COST ALLOCATION PRINCIPLES.—The
13 Commission shall require that tariffs filed under this
14 subsection fairly reflect and allocate the costs of pro-
15 viding service to each class of customers, including
16 improved reliability, reduced congestion, reduced
17 power losses, greater carrying capacity, reduced op-
18 erating reserve requirements, and improved access to
19 generation, in accordance with cost allocation prin-
20 ciples of the Commission.

21 “(3) COST CAUSATION PRINCIPLE.—The cost of
22 electric transmission facilities described in para-
23 graph (1) shall be allocated to customers within the
24 transmission planning region or regions that benefit
25 from the facilities in a manner that is at least

1 roughly commensurate with the estimated benefits
2 described in paragraph (2).”.

3 (2) SAVINGS CLAUSE.—If the Federal Energy
4 Regulatory Commission finds that the considerations
5 under paragraphs (2) through (5) and, if applicable,
6 (6) of subsection (b) of section 216 of the Federal
7 Power Act (16 U.S.C. 824p) (as amended by sub-
8 section (a)) are met, nothing in this section or the
9 amendments made by this section shall be construed
10 to exclude transmission facilities located on the outer
11 Continental Shelf from being eligible for cost alloca-
12 tion established under subsection (f)(1) of that sec-
13 tion (as amended by paragraph (1)).

14 (e) COORDINATION OF FEDERAL AUTHORIZATIONS
15 FOR TRANSMISSION FACILITIES.—Section 216(h) of the
16 Federal Power Act (16 U.S.C. 824p(h)) is amended—

17 (1) in paragraph (2), by striking the period at
18 the end and inserting the following: “, except that—

19 “(A) the Commission shall act as the lead
20 agency in the case of facilities permitted under
21 subsection (b); and

22 “(B) the Department of the Interior shall
23 act as the lead agency in the case of facilities
24 located on a lease, easement, or right-of-way
25 granted by the Secretary of the Interior under

1 section 8(p)(1)(C) of the Outer Continental
2 Shelf Lands Act (43 U.S.C. 1337(p)(1)(C)).”;

3 (2) in each of paragraphs (3), (4)(B), (4)(C),
4 (5)(B), (6)(A), (7)(A), (7)(B)(i), (8)(A)(i), and (9),
5 by striking “Secretary” each place it appears and in-
6 serting “lead agency”;

7 (3) in paragraph (4)(A), by striking “As head
8 of the lead agency, the Secretary” and inserting
9 “The lead agency”;

10 (4) in paragraph (5)(A), by striking “As lead
11 agency head, the Secretary” and inserting “The lead
12 agency”; and

13 (5) in paragraph (7)—

14 (A) in subparagraph (A), by striking “18
15 months after the date of enactment of this sec-
16 tion” and inserting “18 months after the date
17 of enactment of the Building American Energy
18 Security Act of 2023”; and

19 (B) in subparagraph (B)(i), by striking “1
20 year after the date of enactment of this sec-
21 tion” and inserting “18 months after the date
22 of enactment of the Building American Energy
23 Security Act of 2023”.

24 (f) INTERSTATE COMPACTS.—Section 216(i)(4) of
25 the Federal Power Act (16 U.S.C. 824p(i)(4)) is amended

1 by striking “in disagreement” in the matter preceding
2 subparagraph (A) and all that follows through the period
3 at the end of subparagraph (B) and inserting “unable to
4 reach an agreement on an application seeking approval by
5 the date that is 1 year after the date on which the applica-
6 tion for the facility was filed.”.

7 (g) TRANSMISSION INFRASTRUCTURE INVEST-
8 MENT.—Section 219(b)(4) of the Federal Power Act (16
9 U.S.C. 824s(b)(4)) is amended—

10 (1) in subparagraph (A), by striking “and”
11 after the semicolon at the end;

12 (2) in subparagraph (B), by striking the period
13 at the end and inserting “; and”; and

14 (3) by adding at the end the following:

15 “(C) all prudently incurred costs associ-
16 ated with payments to jurisdictions impacted by
17 electric transmission facilities developed pursu-
18 ant to section 216.”.

19 (h) CONFORMING AMENDMENT.—Section 50151(b)
20 of Public Law 117–169 (42 U.S.C. 18715(b)) is amended
21 by striking “facilities designated by the Secretary to be
22 necessary in the national interest” and inserting “facilities
23 in national interest electric transmission corridors des-
24 ignated by the Secretary”.

1 **SEC. 202. DEFINITION OF NATURAL GAS UNDER THE NAT-**
2 **URAL GAS ACT.**

3 (a) IN GENERAL.—Section 2 of the Natural Gas Act
4 (15 U.S.C. 717a) is amended by striking paragraph (5)
5 and inserting the following:

6 “(5) ‘Natural gas’ means—
7 “(A) natural gas unmixed;
8 “(B) any mixture of natural and artificial
9 gas; or
10 “(C) hydrogen mixed or unmixed with nat-
11 ural gas.”.

12 (b) CONFORMING AMENDMENTS.—Section
13 7(c)(1)(A) of the Natural Gas Act (15 U.S.C.
14 717f(c)(1)(A)) is amended, in the first sentence, in the
15 proviso—

16 (1) by inserting “or, in the case of any person
17 engaged in the transportation of natural gas de-
18 scribed in section 2(5)(C), on the date of enactment
19 of the Building American Energy Security Act of
20 2023,” before “over the route”; and

21 (2) by striking “within ninety days after the ef-
22 fective date of this amendatory Act” and inserting
23 “within 90 days after the effective date of this
24 amendatory Act, or, in the case of any person en-
25 gaged in the transportation of natural gas described
26 in section 2(5)(C), within 90 days after the date of

1 enactment of the Building American Energy Secu-
2 rity Act of 2023”.

3 (c) SAVINGS CLAUSE.—Nothing in this section or an
4 amendment made by this section authorizes the Federal
5 Energy Regulatory Commission—

6 (1) to order a natural-gas company under sec-
7 tion 7(a) of the Natural Gas Act (15 U.S.C.
8 717f(a)) to extend or modify the transportation fa-
9 cilities of the natural-gas company used for natural
10 gas described in subparagraph (A) or (B) of section
11 2(5) of that Act (15 U.S.C. 717a(5)) to transport
12 natural gas described in subparagraph (C) of that
13 section; or

14 (2) to attach to a certificate of public conven-
15 ience and necessity issued under section 7(e) of the
16 Natural Gas Act (15 U.S.C. 717f(e)) any require-
17 ment that transportation facilities used for natural
18 gas described in subparagraph (A) or (B) of section
19 2(5) of that Act (15 U.S.C. 717a(5)) be capable of
20 transporting natural gas described in subparagraph
21 (C) of that section.

1 **SEC. 203. AUTHORIZATION OF MOUNTAIN VALLEY PIPE-**
2 **LINE.**

3 (a) FINDING.—Congress finds that the timely com-
4 pletion of the construction of the Mountain Valley Pipe-
5 line—

6 (1) is necessary—

7 (A) to ensure an adequate and reliable
8 supply of natural gas to consumers at reason-
9 able prices;

10 (B) to facilitate an orderly transition of
11 the energy industry to cleaner fuels; and

12 (C) to reduce carbon emissions; and

13 (2) is in the national interest.

14 (b) PURPOSE.—The purpose of this section is to re-
15 quire the appropriate Federal officers and agencies to take
16 all necessary actions to permit the timely completion of
17 the construction and operation of the Mountain Valley
18 Pipeline without further administrative or judicial delay
19 or impediment.

20 (c) DEFINITIONS.—In this section:

21 (1) COMMISSION.—The term “Commission”
22 means the Federal Energy Regulatory Commission.

23 (2) MOUNTAIN VALLEY PIPELINE.—The term
24 “Mountain Valley Pipeline” means the Mountain
25 Valley Pipeline Project, as generally described and

1 approved in Federal Energy Regulatory Commission
2 Docket Nos. CP16–10 and CP19–477.

3 (3) SECRETARY CONCERNED.—The term “Sec-
4 retary concerned” means, as applicable—

5 (A) the Secretary of Agriculture;

6 (B) the Secretary of the Interior; or

7 (C) the Secretary of the Army.

8 (d) AUTHORIZATION OF NECESSARY APPROVALS.—

9 (1) BIOLOGICAL OPINION AND INCIDENTAL
10 TAKE STATEMENT.—Notwithstanding any other pro-
11 vision of law, not later than 30 days after the date
12 of enactment of this Act, the Secretary of the Inte-
13 rior shall issue a biological opinion and incidental
14 take statement for the Mountain Valley Pipeline,
15 substantially in the form of the biological opinion
16 and incidental take statement for the Mountain Val-
17 ley Pipeline issued by the United States Fish and
18 Wildlife Service on September 4, 2020.

19 (2) ADDITIONAL AUTHORIZATIONS.—Notwith-
20 standing any other provision of law, not later than
21 30 days after the date of enactment of this Act—

22 (A) the Secretary of the Interior shall issue
23 all rights-of-way, permits, leases, and other au-
24 thorizations that are necessary for the construc-
25 tion, operation, and maintenance of the Moun-

1 tain Valley Pipeline, substantially in the form
2 approved in the record of decision of the Bu-
3 reau of Land Management entitled “Mountain
4 Valley Pipeline and Equitrans Expansion
5 Project Decision to Grant Right-of-Way and
6 Temporary Use Permit” and dated January 14,
7 2021;

8 (B) the Secretary of Agriculture shall
9 amend the Land and Resource Management
10 Plan for the Jefferson National Forest as nec-
11 essary to permit the construction, operation,
12 and maintenance of the Mountain Valley Pipe-
13 line within the Jefferson National Forest, sub-
14 stantially in the form approved in the record of
15 decision of the Forest Service entitled “Record
16 of Decision for the Mountain Valley Pipeline
17 and Equitrans Expansion Project” and dated
18 January 2021;

19 (C) the Secretary of the Army shall issue
20 all permits and verifications necessary to permit
21 the construction, operation, and maintenance of
22 the Mountain Valley Pipeline across waters of
23 the United States; and

24 (D) the Commission shall—

1 (i) approve any amendments to the
2 certificate of public convenience and neces-
3 sity issued by the Commission on October
4 13, 2017 (161 FERC 61,043); and

5 (ii) grant any extensions necessary to
6 permit the construction, operation, and
7 maintenance of the Mountain Valley Pipe-
8 line.

9 (e) **AUTHORITY TO MODIFY PRIOR DECISIONS OR**
10 **APPROVALS.**—In meeting the applicable requirements of
11 subsection (d), a Secretary concerned may modify the ap-
12 plicable prior biological opinion, incidental take statement,
13 right-of-way, amendment, permit, verification, or other au-
14 thorization described in that subsection if the Secretary
15 concerned determines that the modification is necessary—

16 (1) to correct a deficiency in the record; or

17 (2) to protect the public interest or the environ-
18 ment.

19 (f) **RELATIONSHIP TO OTHER LAWS.**—

20 (1) **DETERMINATION TO ISSUE OR GRANT.**—

21 The requirements of subsection (d) shall supersede
22 the provisions of any law (including regulations) re-
23 lating to an administrative determination as to
24 whether the biological opinion, incidental take state-
25 ment, right-of-way, amendment, permit, verification,

1 or other authorization shall be issued for the Moun-
2 tain Valley Pipeline.

3 (2) SAVINGS PROVISION.—Nothing in this sec-
4 tion limits the authority of a Secretary concerned or
5 the Commission to administer a right-of-way or en-
6 force any permit or other authorization issued under
7 subsection (d) in accordance with applicable laws
8 (including regulations).

9 (g) JUDICIAL REVIEW.—

10 (1) IN GENERAL.—The actions of the Secre-
11 taries concerned and the Commission pursuant to
12 subsection (d) that are necessary for the construc-
13 tion and initial operation at full capacity of the
14 Mountain Valley Pipeline shall not be subject to ju-
15 dicial review.

16 (2) OTHER ACTIONS.—The United States Court
17 of Appeals for the District of Columbia Circuit shall
18 have original and exclusive jurisdiction over—

19 (A) any claim alleging—

20 (i) the invalidity of this section; or

21 (ii) that an action is beyond the scope
22 of authority conferred by this section; and

23 (B) any claim relating to any action taken
24 by a Secretary concerned or the Commission re-

1 lating to the Mountain Valley Pipeline other
2 than an action described in paragraph (1).

3 **SEC. 204. RIGHTS-OF-WAY ACROSS INDIAN LAND.**

4 The first section of the Act of February 5, 1948 (62
5 Stat. 17, chapter 45; 25 U.S.C. 323), is amended by add-
6 ing at the end the following: “Any right-of-way granted
7 by an Indian tribe for the purposes authorized under this
8 section shall not require the approval of the Secretary of
9 the Interior, on the condition that the right-of-way ap-
10 proval process by the Indian tribe substantially complies
11 with subsection (h) of the first section of the Act of Au-
12 gust 9, 1955 (69 Stat. 539, chapter 615; 25 U.S.C.
13 415(h)), or the Indian tribe has approved regulations
14 under paragraph (1) of that subsection.”.

15 **SEC. 205. FEDERAL ENERGY REGULATORY COMMISSION**
16 **STAFFING.**

17 (a) CONSULTATION DEADLINE.—Section 401(k)(6)
18 of the Department of Energy Organization Act (42 U.S.C.
19 7171(k)(6)) is amended—

20 (1) by striking “The Chairman” and inserting
21 the following:

22 “(A) IN GENERAL.—The Chairman”; and

23 (2) by adding at the end the following:

24 “(B) DEADLINE.—The requirement under
25 subparagraph (A) shall be considered met if the

1 Director of the Office of Personnel Management
2 has not taken final action on a plan for apply-
3 ing authorities under this subsection within 120
4 days of submission of the plan by the Chairman
5 to the Director of the Office of Personnel Man-
6 agement.”.

7 (b) ELIMINATION OF REPORTING SUNSET.—Section
8 11004(b)(1) of the Energy Act of 2020 (42 U.S.C. 7171
9 note; Public Law 116–260) is amended by striking “there-
10 after for 10 years,” and inserting “thereafter,”.

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